

Amendment to Senate Bill No. 40
As passed by Senate
Amendment Requested by the Department of Public
Health and Human Services
For the House Judiciary Committee

1. Title, Page 1, line 6

Following: "procedures;"

Insert: "requiring consultation with and consent of the respondent prior to appointment of a friend of respondent;"

2. Page 4, line 2.

Following: "shall"

Insert: "(i)"

3. Page 4, line 2.

Following: "professional person"

Strike: "and"

Insert: "; (ii) inquire of all persons present at the hearing, including the respondent and the respondent's counsel, as to the availability of any person to serve as friend of respondent, including a person mentioned in the petition, and if an appropriate person is available to serve and the respondent or the respondent's counsel consents, appoint"

4. Page 4, line 2.

Following: "respondent"

Strike: "and"

Insert: "; and (iii)"

5. Page 4, line 12.

Following: "friend of respondent"

Insert: "at the request of the respondent or"

-End-

On 12/30/2008, the Montana Supreme Court invalidated two mental health commitments solely because the district court failed to appoint a friend of respondent, although the Court recognized that in many cases there may be no one available to serve. In 2007, the Court invalidated a commitment because the appointed friend had a conflict of interest and the respondent objected. This amendment requires the district court to consult with and obtain consent of the respondent prior to appointing a friend of respondent.

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